

REMARKS

By the present amendment, Applicant has amended Claims 1, 9 and 15, and cancelled Claims 2 and 3. Claims 1 and 4-18 remain pending in the present application. Claims 1, 9, and 15 are independent claims.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held January 18, 2006. The present response summarizes the substance of the interview. At the interview a proposed amendment to the claims was presented for discussion. Proposed Claims 1, 9 and 15 set forth a barrier system having, inter alia, first and second fence panels, each panel having first and second ends. The first end of the first panel includes at least one connector projection, and the first end of the second panel includes at least one connector slot. When coupled together, the first ends define a cavity therebetween that circumscribes an existing fence post. Arguments were advanced that the applied prior art to Brema et al. failed to show the original claim limitations and moreover, as proposed. The Examiner indicated that the proposed amendment to the claims define over the applied prior art of record, pending further search and consideration. In addition, the Examiner proposed consideration of U.S. Patent No. 4,038,802 to Bajorek et al. as teaching a cover formed of at least to interlocking members for substantially surrounding an existing bar.

The Examiner has required election among the inventions of Species I, Figs. 2-4, 9, and 12, and II, Figs. 5-7, 8A, 14 and 15. During a telephone conversation on August 30, 2005, Applicant's representative provisionally elected with traverse to prosecute the Species I, drawn to Figs. 2-4, 9, and 12, namely, Claims 1-3, 5, 8-12, and 15-18. This is to affirm the election. Claims 4, 6, 7, 13, and 14 were held withdrawn from consideration by the

Examiner as being directed to a non-elected species. The Examiner indicated that independent Claims 1, 9, and 15 were generic. Accordingly, it is proposed herein that the instant claims be withdrawn until indication of an allowed generic claim, upon which a rejoinder of all non-elected claims is requested. In addition, in the event a generic claim is not found to be allowable, it is noted that under the provisions of 35 U.S.C. § 121 Applicant reserves the right to file a divisional application directed to the non-elected subject matter.

The Examiner rejected Claims 1-3, 5, 8-12, and 15-18 under 35 U.S.C. 102(b), as being anticipated by Brema et al. This rejection is respectfully traversed.

The applied prior art reference to Brema et al. discloses a modular fence having a plurality of modular panels mounted on posts. The modular panels are formed from thermoplastic or thermoset materials. Each panel has a rail portion and a connector at each end for fitting over the posts. Each connector has an integral expansion joint in its central passage and each connector is offset in opposite directions to the longitudinal center of the panel to provide a hinged effect with the connectors of adjacent panels in the fence.

The claims in this application have been revised to more particularly define Applicant's unique construction in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Applicant has amended the claims of the present case to recite first and second panels, where each first and second panel has first and second ends. The first ends of both the first and second panels each have a releasable attachment structure disposed thereon.

Upon being constructed, the first and second releasable attachment structure of the first ends of the first and second fence panels matingly engage such that a cavity is formed between the first ends of the first and second fence panels. The formed cavity is dimensioned and configured to circumscribe an exterior surface of a pre-existing fence post. In addition, the second ends of the first and second fence panels are designed and configured to be interconnected with subsequent fence panels, such that a plurality of fence panels are connected alternately by the first ends and the second ends.

The applied prior art reference to Brema et al., as alleged by the Examiner in the outstanding Office Action, fails to anticipate Applicant's embodiments, set forth in the claims as amended. Applicant respectfully submits that for at least these reasons, independent Claims 1, 9, and 15, along with their respective dependent Claims 4-8, 10-14, and 16-18, are allowable over the prior art applied of record.

It is noted that during the aforementioned interview, the Examiner proposed consideration of U.S. Patent No. 4,038,802 to Bajorek et al. as potentially meeting the limitations of the amended claims. The reference to Bajorek et al. discloses a tubular article cover having first and second substantially U-shaped interlocking bracket members for enclosing a bar, or the like, and additional U-shaped interlocking cover members that externally attach to the U-shaped interlocking bracket members. Applicant respectfully submits that, in light of the present amendments to the claims, the reference to Bajorek et al. does not anticipate nor renders obvious the embodiments of the presently amended claims. Any rejection based on the Bajorek et al. reference should be considered improper, and unmerited.

Application Serial No.: 10/815,829
Art Unit: 3679

Attorney Docket No. 22187.00
Confirmation No. 8875

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Warren S. Edmonds". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

Warren S. Edmonds
Registration No. 39,642
(703) 486-1000

RCL:DHT:wse